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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,021	09/11/2002	Artur Kurz	P6786.7US	7556
30008	7590	06/14/2004	EXAMINER	
GUDRUN E. HUCKETT DRAUDT LONSSTR. 53 WUPPERTAL, 42289 GERMANY			CADUGAN, ERICA E	
			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 06/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/065,021

Applicant(s)

KURZ ET AL.

Examiner

Erica E Cadugan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the embodiment wherein the first and second spindles both perform machining on "one workpiece" as set forth in claims 5, 7, 13, and 15, and the embodiment wherein a "second machine operator" performs the stocking of the second tool magazine as set forth in claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Information Disclosure Statement

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 depends from itself, rendering it unclear what limitations it is intended to encompass. In the interest of furthering patent prosecution, for the analysis of the claim with respect to the prior art, claim 3 is being considered to depend from claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 3 is as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. pat. No. 5,971,904 to Soltermann et al. ('904).

'904 teaches a machining device including plural work stations 7, each station including a tool spindle 13 (Figure 1, Figure 3, and col. 1, lines 38-55 and col. 3, lines 55-60, for example).

Note that '904 describes a large tool magazine 21 that includes a plurality of smaller tool supports 31, each support 31 carrying at least two tools (col. 4, lines 1-10), and thus each smaller support 31 being considered itself a "magazine" as broadly claimed. Thus, '904 teaches at least first and second magazines 31 (see Figure 4, for example, see also col. 6, lines 19-30, for example).

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It is noted that '904 explicitly teaches that the exchanging of bars 31 and thus the tools therein occurs at an operator interface 22 during machining operations (col. 6, lines 49-53, for example).

Regarding claim 3, note that the bars 31 mounted on the large magazine 21 are moved to the interface 22 for the aforescribed exchange (col. 6, lines 49-53).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-16, 3 is as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,077,206 to Azema ('206).

Azema teaches a machining station P2 (Figure 1) having a tool spindle 200 movable in X, Y, and Z directions, and a tool storage station P4 (col. 4, lines 53-65 and Figures 1-2, for example). Azema explicitly teaches that chamber 400 of the tool magazine has a rear opening that permits access to the tools in the magazine during machining by the machine tool to load or unload the magazine (col. 5, lines 57-61).

Regarding claim 3, note that the rotary cylinder 500 must be rotated to a position wherein the chamber 400 is closed by flap 520 during a machining operation (col. 5, lines 21-43), which machining operation occurs during the aforescribed loading and unloading or stocking of the magazine.

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Azema does not teach that there are two machining tools M (Figure 1), and is silent about how many machine operators are utilized.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized as many machine tools M (including the magazine, the tools therein as in claims 6 and 8, for example, and the spindle thereof) and operators and thus operations of stocking as was desired or expedient to an end user, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Note that duplicating the machines M and the stocking and the operators results in the simultaneous stocking of the magazines. Note that since the spindles would each continue machining while the magazines associated therewith were stocked, a second spindle operates while a first magazine was being restocked, and a second magazine would be restocked while the first (and second, etc.) spindles were operating. Note that so long as the stocking of the magazine occurs during the machining operation (i.e., does not interfere with the machining operation), it does not appear to matter to the present invention whether the machining is identical or different (see paragraphs 0004-0006 and 0026-0029). Thus, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have conventionally performed parallel identical machining on separate workpieces with the separate spindles, or to have conventionally used the separate spindles to perform alternately on one workpiece because Applicant has not disclosed that performing such machining provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention of stocking the magazines during machining to perform equally well with

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systems wherein the machining is the same or different because the salient function of the stocking occurring during the machining is unchanged in the modification.

Therefore, it would have been an obvious matter of design choice to have modified the teachings of Azema to have obtained the invention as specified in the claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note particularly that U.S. Pat. No. 5944643 teaches a machine with two spindles that perform either alternate work on a workpiece or simultaneous parallel work on a workpiece (col. 2), and also teaches moving the tool magazine to a position where it can be stocked (col. 3, lines 4-12 and col. 4, lines 37-51, for ex.)

Faxing of Responses to Office Actions and Contact Information

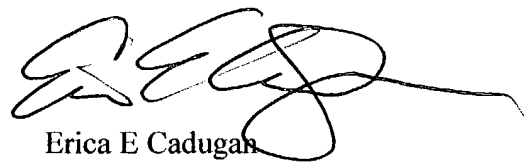
10. In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erica Cadugan whose telephone number is (703) 308-6395. The examiner can normally be reached on Monday through Thursday from 7:30 a.m. to 5:00 p.m., and every other Friday from 7:30 a.m. to 4:00 p.m. If attempts to reach the examiner by

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telephone are unsuccessful, the examiner's supervisor, A.L. Wellington can be reached at (703) 308-2159. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 3700 receptionist whose telephone number is (703) 308-1148.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Erica E Cadogan', with a long horizontal line extending to the right.

Erica E Cadogan
Primary Examiner
Art Unit 3722

eec
June 9, 2004